

§ 137.303

Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

§ 137.303 Are Federal or other funds available for training associated with Tribal assumption of environmental responsibilities?

Yes, Self-Governance Tribes may use construction program and project funds for training and program development. Training and program development funds may also be available from other Federal agencies, such as the Environmental Protection Agency and the National Park Service, state and local governments, and private organizations.

§ 137.304 May Self-Governance Tribes buy back environmental services from the IHS?

Yes, Self-Governance Tribes may “buy back” project related services in their construction project agreement, including design and construction engineering, and environmental compliance services from the IHS in accordance with Section 508(f) of the Act [25 U.S.C. 458aaa-7(f)] and § 137.95, subject to the availability of the IHS's capacity to conduct the work.

§ 137.305 May Self-Governance Tribes act as lead, cooperating, or joint lead agencies for environmental review purposes?

Yes, Self-Governance Tribes assuming Federal environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa-8] are entitled to receive equal consideration, on the same basis as any Federal agency, for lead, cooperating, and joint lead agency status. For informational purposes, the terms “lead,” “cooperating,” and “joint lead agency” are defined in the CEQ regulations at 40 CFR 1508.16, 1508.5, and 1501.5 respectively.

§ 137.306 How are Self-Governance Tribes recognized as having lead, cooperating, or joint lead agency status?

Self-Governance Tribes may be recognized as having lead, cooperating, or joint lead agency status through funding or other agreements with other

42 CFR Ch. I (10–1–06 Edition)

agencies. To the extent that resources are available, the Secretary will encourage and facilitate Federal, state, and local agencies to enter into agreements designating Tribes as lead, cooperating, or joint lead agencies for environmental review purposes.

§ 137.307 What Federal environmental responsibilities remain with the Secretary when a Self-Governance Tribe assumes Federal environmental responsibilities for construction projects under section 509 of the Act [25 U.S.C. 458aaa-8]?

(a) All environmental responsibilities for Federal actions not directly related to construction projects assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa-8] remain with the Secretary. Federal agencies, including the IHS, retain responsibility for ensuring their environmental review procedures meet the requirements of NEPA, NHPA and related provisions of law, as called for in § 137.297.

(b) The Secretary will provide information updating and changing IHS agency environmental review policy and procedures to all Self-Governance Tribes implementing a construction project agreement, and to other Indian Tribes upon request. If a Self-Governance Tribe participating under section 509 of the Act [25 U.S.C. 458aaa-8] does not wish to receive this information, it must notify the Secretary in writing. As resources permit, at the request of the Self-Governance Tribe, the Secretary will provide technical assistance to the Self-governance tribe to assist the Self-governance Tribe in carrying out Federal environmental responsibilities.

§ 137.308 Does the Secretary have any enforcement authority for Federal environmental responsibilities assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa-8]?

No, the Secretary does not have any enforcement authority for Federal environmental responsibilities assumed by Tribes under section 509 of the Act [25 U.S.C. 458aaa-8].

§ 137.309 How are NEPA and NHPA obligations typically enforced?

NEPA and NHPA obligations are typically enforced by interested parties